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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,975	01/07/2002	Michael Rossides		7394

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Michael Rossides
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Scottsdale, AZ 85259

EXAMINER

RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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02/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/042,975	Applicant(s) ROSSIDES, MICHAEL	
	Examiner Yehdega Retta	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 15-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 15-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to amendment filed December 09, 2008. Applicant canceled claims 9-14 and added new claims 15-29. Claims 2 and 15-29 are currently pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardenswartz 6,298,330 in view of Goldhaber U.S. No. 5,855,008, in view of Walker et al. U.S. Patent No. 6,086,477 and further in view of Vance U.S. Patent No. 6,267,672.

Regarding claims 2 and 22, Gardenswartz teaches (a) entering into the computer an advertiser offer that said recipients will be owed an amount of money if they pay attention to a specified ad message, and if they satisfy a set of at least one target audience characteristics (the value contract is a promotional incentive in which the consumer is offered a reward for complying with a particular behavioral pattern such as a predefined change in behavior or the continuance of an established behavior); (b) stating said characteristics as a set of offer conditions by said advertiser, (c) specifying said amount of money as an expected value (EV), said EV to be paid via an EV payment bet including a Payoff, (d) presenting an interface to the public for enabling anyone to access and accept said offer, (e) registering acceptance of said offer by a user called a recipient, said acceptance entailing: registering the recipient's identity

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(see col. 14 line 54 to col. 15 line 45). Gardenswartz teaches the consumer being offered a reward for complying with a particular behavioral pattern but does not explicitly teach the value contract is rewarded if they pay attention to an ad message and also purchase the product.

Goldhaber teaches entering into the computer an advertiser offer that said recipients will be owed an amount of money if they pay attention to a specified ad message (see col. 7. lines 23-67, col. 11 line 49 to col. 12 line 45 and col. 14 line 65 to col. 17 line 25). Gardenswartz teaches in order for a consumer to fulfill a value contract and receive a reward, the consumer may be required to purchase a pre-selected amount of a specified product within a predetermined amount of time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to know that the consumer of Gardenswartz would view the ad message of the product that they are required to purchase. Thus, one of ordinary skill in the art would expect the consumers to pay attention to the product, as in Goldhaber, before they purchase the product and receive the offer, as in Gardenswartz.

Walker teaches paying expected value including a payoff to players (see col. 9 line 1 to col. 10 line 48). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Gardenswartz's reward for purchasing product and Walker lottery system, since randomly selecting winners and paying expected value of the award to selected ones reduce the outcome of bets or winners. Therefore, one would be motivated to provide chance of winning to all participants and paying Expected value to only selected winner in order to reduce the outcome. Both Gardenswartz/Goldhaber/Walker failed to teach inspecting winners, if they satisfy offer condition, it is taught in Vance. Vance teaches winners submit information prior to receiving the prize (see col. 6 lines 34-54). It would have been obvious to one of ordinary skill in

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the art at the time of the invention to combine Gardenswartz's value contract offer and Walker's payment of expected value and Vance verification of winners, in order to prevent dishonest consumers from fraudulently claiming prizes, as taught by Vance (see col. 6 lines 34-54).

Regarding claims 15-20 and 23-28, Gardenswartz teaches entering an offer in which one of said target audience characteristics is that recipients of said amount of money must, after exposure to said message, purchase a specified product or service within a specified period of time, *said purchase not necessarily being from said advertiser*; said amount of money paid to recipients varies depending on the amount of said purchase; one of said target audience characteristics is that recipients make said purchase at a specified location; recipients make said purchase with a specified payment vehicle; who the recipients make said purchase from (col. 15 line 9 to col. 16 line 41).

Regarding claims 21 and 29, Gardenswartz does not teach entering an offer in which one of said target audience characteristics is that said recipient is the purchasing decision-maker for a specified organization. However official notice is taken that is old and well known for retailer to provide reward to decision-maker of companies for procuring product for the company or organization. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Gardenswartz to provide the value contract offer to company buyers to maximize the profit.

Response to Arguments

Applicant did not submit any new argument, therefore the response to the last argument regarding claim 2 still applies.

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Examiner would like to point out that claim 2 recites an offer stated by an advertiser wherein the recipients will be owed an amount of money if they pay attention to a specific message. The claim further recites registering acceptance of the offer; after registering the acceptance executing the EV payment off; and if and only if said recipient wins the bet and after positive determination a payment process is notified for providing the Payoff . However the claim does not recite that the recipient pays attention to any message before the advertiser pays a specified EV payment. Even though the claim recited a “whereby” clause that indicates that the advertiser pays a specified EV to only qualified, targeted recipients in exchange for their attention to a specified message, nowhere in the claim is indicated that the recipient has to pay attention to a message before the execution of the EV payment. According to the claim the EV payment is executed after the “acceptance of the offer”, which means that the recipient only have to accept the offer but does not have to pay attention to any messages.

Claims 15, 16, 18-21 and 23, 24, 26-29, includes limitation that indicates what the target audience characteristic is supposed to be (e.g., the recipients of the amount of money must after exposure to said message purchase a specified product or service within a specified period of time). Examiner would like to point out that the claims only indicate the characteristic of the audience, which is understood to mean that the offer indicates that the users have to agree to the offer but do not have to purchase anything, since the payment (see claim 2) is executed after the offer is accepted.

As indicated before, according to Applicant’s invention the user is not paid for the attention only. The user is required to purchase a product before he/she could get the offer. Examiner relied on Goldhaber for the teaching of user getting paid for paying attention to

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message without the need to purchase the product, and Gardenswartz is relied on for the teaching of providing a reward for changing behavioral pattern such as for buying a specific product within a predetermined amount of time (paying attention to the product is part of the purchasing process). Buyer who is purchasing a product pays attention to the product, before making a decision to purchase the product or while purchasing the product.

Regarding claims 15 and 23 and regarding the claim limitation that “**the purchase not necessarily being from the advertiser**”, Examiner has already pointed out that it is understood to mean that the purchase could be from the advertiser but not necessarily. Also according to applicant’s disclosure the term advertiser means a person or organization that wants to pay for a qualified recipient’s attention to a message and the advertiser sets the qualifications. Based on the term interpretation provided by Applicant an advertiser could be a promoter of different products from different manufacturers or suppliers which means that the advertiser does not have to own any of the products. Examiner also would like to point out that the specification does not clearly disclose that the purchase does not have to be advertiser’s product.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622